

## Quick Look:

***This document includes:***  
Background Information,  
Terms to Know and  
Frequently Asked  
Questions about proposed  
ballot reform measures.

## Terms to Know:

**Electorate:** Voting citizens

**Electoral Ballot:** The document given to voters during elections which lists their voting options and records their vote

**Joint Resolution:** The Legislature proposes constitutional amendments by passing a joint resolution. The primary difference between a bill and a joint resolution is that a joint resolution is not subject to executive approval and cannot be vetoed by the Governor.

## OPI Pulse: Ballot Reform

### Background

The Florida Constitution provides the framework for our state's government, grants rights to its citizens, and outlines the process by which amendments to the Constitution may be proposed and enacted. There are several ways to amend the Florida Constitution, one of which is through a Joint Resolution passed by the Legislature. Joint Resolutions proposing amendments to the Florida Constitution must be passed by a 3/5 vote of all members in the Florida House and Senate, respectively. After both chambers pass a Joint Resolution proposing a constitutional amendment, the amendment text, ballot title, and ballot summary of the amendment (if there is a ballot summary) are printed twice in newspapers throughout the state before the election. The proposed amendment is then submitted to Floridians for a vote, usually at the next general election. The actual ballot given to voters on Election Day typically contains the ballot title and a summary of the amendment, which is called the "ballot summary." If 60 percent of the people who vote on the amendment vote "yes", the Florida Constitution is changed to reflect the amendment.

Floridians can take action in the form of a legal challenge to stop a proposed amendment from appearing on an electoral ballot if they believe the language used to identify and describe the amendment is inaccurate or misleading. This formal challenge is usually presented in a state court. When a challenge is filed, the court hears arguments from both sides and then makes a determination about whether the amendment, as it is titled and described in the ballot summary, can legally appear before Florida voters.

### Issue at a Glance

The House State Affairs Committee proposed a committee substitute for House Bill 1261 related to the manner in which amendments to the Florida Constitution are proposed by the Legislature and presented to the public. Proponents of the bill assert these changes were necessary due to the lack of a statutory process for addressing situations where the courts find legislative ballot titles or ballot summaries inaccurate or otherwise defective. Proponents expressed the following reasons for the bill:

- Proponents argued that because there is no statutory process to address judicially invalidated ballot titles or ballot summaries, legislative amendments have been stricken from the ballot entirely as a result of ballot language disputes. Proponents point to four amendments in the last 10 years that have been removed from the ballot prior to an election based upon the courts' finding of faulty ballot titles or ballot summaries.

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## Quick Facts:

While Joint Resolutions are a common way to change Florida's Constitution, there are four additional ways to amend the Constitution:

- Initiative petition
- Proposal by the Constitution Revision Commission
- Proposal by the Taxation and Budget Reform Commission
- Proposal by a Constitutional Convention

- Proponents noted that members of Florida's judiciary have asked the Legislature to formalize a remedial process on at least seven occasions in judicial opinions issued since 1982.

## What the Bill Does

House Bill 1261 passed the Florida House on April 21, 2011, by a vote of 79-38 and was then sent to the Senate. The Senate included the substance of House Bill 1261 in an amendment to House Bill 1355, a separate bill dealing with various components of the elections process. The Senate sent the amended House Bill 1355 back to the House, including the ballot reform language. The House accepted the Senate's amendment to House Bill 1355 and passed the bill, as amended, on May 5, 2011, by a vote of 77-38. The bill was signed into law by the Governor on May 19, 2011. In addition to other changes to the elections process, the bill establishes specific requirements for Joint Resolutions of the Legislature that propose amendments to the Florida Constitution and outlines a remedial process for handling legislative ballot titles or ballot summaries invalidated by the courts. The statutory changes:

- Expressly authorize the Legislature to propose alternative ballot summaries that describe the chief purpose of a proposed amendment in clear and unambiguous language or require placement on the ballot of the full text of a proposed amendment;
- Create a presumption that the full text of an amendment placed on the ballot is a clear and unambiguous statement of the proposal that provides sufficient notice to voters;
- Require legal challenges to ballot language to be filed within 30 days after the Joint Resolution is filed with the Secretary of State;
- Require the Attorney General to revise a ballot title or ballot summary within 10 days if the courts find the Legislature's ballot title or each ballot summary insufficient, unless the Joint Resolution provides otherwise;
- Require any challenge to a revised ballot title or ballot summary to be filed within 10 days after the Attorney General submits revised language;
- Require the courts to prioritize cases challenging joint resolutions over other pending cases and render decisions as expeditiously as possible;
- Require challenges to Joint Resolutions passed this session to be filed within 30 days after a Joint Resolution is submitted to the Secretary of State or within 30 days after the changes to the statute become law, whichever is later.

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## Additional Resources:

[Florida Department of State](#)

[Florida Division of Elections](#)

[Florida Constitutional Amendments Index](#)

[Find Your Supervisor of Elections](#)

[Florida Courts](#)

The bill also requires that, by December 31, 2013, all voting systems used by voters during a state election must allow for placement on the ballot of the full text of a constitutional amendment or revision containing stricken or underlined language.

## Frequently Asked Questions: Ballot Reform

### ***How often is Florida's Constitution amended?***

The number of proposed Constitutional amendments varies from year to year. According to the Florida Constitutional Amendments Index, over the course of the last 20 years, 60 proposed amendments have been passed.

### ***Why do we even need ballot reform?***

Proponents assert ballot reform is necessary in order to help ensure voters have an opportunity to vote on amendments proposed by their elected representatives in the House and Senate. Since 1982, at least seven decisions issued by the Court contained opinions suggesting the Legislature provide a remedial process to address ballot summaries found defective by the courts.

### ***Why does the bill put time limits on filing challenges to ballot language?***

Proponents assert it is essential that disputes over ballot language do not prevent valid constitutional amendments from appearing on the ballot in a timely manner. Proponents argue that placing time limits on challenging ballot titles or summaries for constitutional amendments proposed by the Legislature helps make certain that these cases are resolved in a timely manner and that the people have an opportunity to exercise their right to vote on constitutional amendments proposed by their elected representatives.

### ***Does the bill alter the manner in which courts review ballot language cases?***

No. The bill does not alter the manner in which courts review ballot titles or ballot summaries to determine accuracy. It also does not alter the 'implicit accuracy requirement' applied by the courts since the 2000 *Armstrong* decision.

### ***Does the bill alter methods for proposing constitutional amendments other than proposals by the Legislature?***

No. The bill does not alter the manner in which amendments are proposed by initiative petition, the Constitution Revision Commission, the Taxation and Budget Reform Commission, or a constitutional convention.

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